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LOK SABHA

The following Bills were introduced in Lok Sabha on the 2nd December, 1961:—

*BILL No. 70 OF 1961

A Bill further to amend the State Financial Corporations Act, 1951.

BE it enacted by Parliament in the Twelfth Year of the Republic of India as follows:—

1. (1) This Act may be called the State Financial Corporations (Amendment) Act, 1961. Short title and commencement

5 (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

63 of 1951. 2. In section 2 of the State Financial Corporations Act 1951 Amendment of section 2.
(hereinafter referred to as the principal Act),—

10 (i) for clause (c), the following clause shall be substituted, namely:—

15 ‘(c) “industrial concern” means any concern engaged or to be engaged in the manufacture, preservation or processing of goods or in mining or in the hotel industry or in the transport of passengers or goods by road or by water or in the generation or distribution of electricity or any other form of power or in the development of any contiguous area of land as an industrial estate.

Explanation.—The expression “processing of goods” includes any art or process for producing, preparing or

*The President has, in pursuance of clauses (1) and (3) of article 117 and clause (1) of article 274 of the Constitution of India, recommended to Lok Sabha the introduction and consideration of the Bill.

making an article by subjecting any material to a manual, mechanical, chemical, electrical or any other like operation;'

(ii) for clause (ff), the following clauses shall be substituted, namely:—

'(ff) "State co-operative bank" shall have the meaning assigned to it in clause (f) of section 2 of the Reserve Bank of India Act, 1934;

2 of 1934.

(fff) "State Government", in relation to a Union territory, means the Administrator thereof;'

Amendment
of section
A.

3. In section 3A of the principal Act, in clause (b) of sub-section (2), after the word and figure "section 7", the words and figure "or section 8" shall be inserted. 10

Amendment
of section 4.

4. In section 4 of the principal Act, in clause (c) of sub-section (3), after the words "insurance companies", the following shall be inserted, namely:— 15

"(including the Life Insurance Corporation of India established under section 3 of the Life Insurance Corporation Act, 1956)".

31 of 1956.

Substitution
of new sec-
tions for sec-
tions 7 and 8.

5. For sections 7 and 8 of the principal Act, the following sections shall be substituted, namely:— 20

Additional
capital of the
Financial
Corporation
and its
borrowing
powers.

"7. (1) The Financial Corporation may, in consultation with the Reserve Bank, issue and sell bonds and debentures carrying interest for the purpose of increasing its working capital and such bonds and debentures shall be guaranteed by the State Government as to the repayment of the principal and the payment of interest at such rate as the State Government may, on the recommendation of the Board and with the approval of the Central Government, fix at the time the bonds and debentures are issued. 25

(2) The Financial Corporation may, for the purposes of carrying out its functions under this Act, borrow money from the Reserve Bank— 30

(a) repayable on demand or on the expiry of a fixed period not exceeding ninety days from the date on which the money is so borrowed against the security of — 35

(i) stocks, funds and securities (other than immovable property) in which a trustee is authorised to invest trust money by any law for the time being in force in India, or

(ii) such bills of exchange and promissory notes as are eligible for purchase or rediscount by the Reserve Bank or as are fully guaranteed as to the repayment of the principal and payment of interest by a State Government;

(b) repayable on the expiry of a fixed period not exceeding eighteen months from the date on which the money is so borrowed, against securities of the Central Government or of any State Government of any maturity, or against bonds and debentures issued by the Financial Corporation and guaranteed by the State Government and maturing within a period not exceeding eighteen months from the date on which the money is so borrowed:

Provided that the amount borrowed by the Financial Corporation under clause (b) shall not at any time exceed in the aggregate sixty per cent. of the paid-up share capital thereof.

(3) The Financial Corporation may, for the purposes of carrying out its functions under this Act, borrow money from the State Government in consultation with the Reserve Bank on such terms and conditions as may be agreed upon.

(4) The Financial Corporation may, with the prior approval of the Reserve Bank, also borrow money from any financial institution notified in this behalf by the Central Government on such terms and conditions as may be agreed upon.

(5) The total amount of bonds and debentures issued and outstanding, the amounts borrowed by the Financial Corporation under clause (b) of sub-section (2), sub-section (3) and sub-section (4) and of the contingent liabilities of the Financial Corporation in the form of guarantees given by it or underwriting agreements entered into by it shall not at any time exceed ten times the amount of the paid-up share capital and the reserve fund of the Financial Corporation.

8. (1) The Financial Corporation may accept from the State Government or, with the prior approval of the State Government and the Reserve Bank, a local authority or any other person deposits repayable after the expiry of a period which shall not be less than twelve months from the date of the making of the deposit and on such other terms as it thinks fit:

Deposits
with the
Financial
Corporation.

Provided that the total amount of such deposits shall not at any time exceed the paid-up share capital of the Financial Corporation.

(2) All deposits accepted under sub-section (1), other than the deposits from the State Government, shall be guaranteed by the State Government as to the repayment of the principal and the payment of interest.”.

Amendment
of section 10.

6. In section 10 of the principal Act,—

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(i) in clause (b), the words “the Central Board of” shall be omitted;

(ii) in clause (c), the words “the Board of directors of” shall be omitted;

(iii) for clause (f), the following clause shall be substituted, namely:—

“(f) a managing director appointed by the State Government in consultation with the Reserve Bank and, except in the case of first appointment, also with the Board;”.

15

Substitution
of new section
for section 16.
Remuneration
of directors.

7. For section 16 of the principal Act, the following section shall be substituted, namely:—

“16. The directors other than the managing director and not being servants of the Government shall be paid such fees as may be prescribed for attending meetings of the Board and, if they are members of the Executive Committee, or any other committee appointed by the Financial Corporation, for attending meetings of such committee.”.

Amendment
of section 17.

8. In section 17 of the principal Act, in sub-section (1),—

(i) for clause (c), the following clause shall be substituted, namely:—

“(c) hold office for such term not exceeding four years as the State Government may specify and be eligible for reappointment;”;

(ii) in the proviso, the words “shall hold office for such term and” shall be omitted.

Amendment
of section 19.

9. In section 19 of the principal Act,—

(i) in sub-section (3A), for the words “the Central Board of the Reserve Bank or the Board of directors of the Industrial Finance Corporation of India”, the words and figures “the Reserve Bank or the Industrial Finance Corporation of India established under the Industrial Finance Corporation Act, 1948” shall be substituted;

(ii) for sub-section (4), the following sub-sections shall be substituted, namely:—

“(4) If for any reason a director nominated under clause (a) or clause (b) or clause (c) of section 10 who is a member of the Executive Committee or any other committee is unable to attend any meeting of the Executive Committee or other committee, the State Government, the Reserve Bank or the Industrial Finance Corporation established under the Industrial Finance Corporation Act, 1948, as the case may be, depute any other person to attend the said meeting and such person shall, for the purposes of the said meeting, be deemed to be a member of such committee.

(5) If for any reason the Chairman of the Board or the Chairman of the Executive Committee is unable to attend any meeting of the Board or, as the case may be, of the Executive Committee,—

(a) in the case of the meeting of the Board, a director, not being the managing director, authorised by the Chairman of the Board in writing shall preside at such meeting, but if the director so authorised is absent or if no such authorisation has been made, the Board may elect a director to preside at that meeting; and

(b) in the case of the meeting of the Executive Committee, a member authorised in writing by the Chairman of that Committee shall preside at that meeting, but if the member so authorised is absent or if no such authorisation has been made, the Committee may elect any of its members to preside at that meeting.”

10. For section 25 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 25.

“25. (1) The Financial Corporation may, subject to the provisions of this Act, carry on and transact any of the following kinds of business, namely:—

Business which Financial Corporation may transact.

(a) guaranteeing, on such terms and conditions as may be agreed upon,—

(i) loans raised by industrial concerns which are repayable within a period not exceeding twenty years, and are floated in the public market;

(ii) loans raised by industrial concerns from scheduled banks or State co-operative banks;

(b) guaranteeing, on such terms and conditions as may be agreed upon, deferred payments due from any industrial concern in connection with its purchase of capital goods within India;

(c) underwriting of the issue of stock, shares, bonds or debentures by industrial concerns;

(d) acting as agent of the Central Government or the State Government or the Industrial Finance Corporation of India established under the Industrial Finance Corporation Act, 1948, or any other financial institution notified in this behalf by the Central Government in the transaction of any business with an industrial concern in respect of loans or advances granted, or debentures subscribed, by any one of them; 10 15 of 1948.

(e) receiving in consideration of the services mentioned in the preceding clauses such commission as may be agreed upon; 15

(f) retaining as part of its assets any stock, shares, bonds or debentures of an industrial concern which it may have to take in fulfilment of its underwriting liabilities, so however, that it disposes of the stock, shares, bonds or debentures so acquired as early as practicable, but in no case the stock, shares, bonds or debentures so acquired shall be retained beyond a period of seven years from the date of such acquisition, except with the prior permission of the Reserve Bank; 20 25

Provided that the Financial Corporation may subscribe to stock or shares of the industrial concern if such concern increases its subscribed capital by the issue of further stock or shares in accordance with, and subject to, the provisions of section 81 of the Companies Act, 1956, but the stock or shares so subscribed shall not be retained after the stock or shares of the industrial concern taken in fulfilment of its underwriting liabilities are disposed of; 30 1 of 1956.

(g) granting loans or advances to, or subscribing to debentures of, an industrial concern, repayable within a period not exceeding twenty years from the date on which they are granted or subscribed to, as the case may be; 35

Provided that nothing contained in this clause shall be deemed to preclude the Financial Corporation from granting loans or advances to, or subscribing to debentures of, an 40

Industrial concern to which may be attached an option to convert such debentures or loans into stock or shares of the industrial concern:

Provided further that the Financial Corporation may, in the exercise of such option, convert such debentures or loans into stock or shares of the industrial concern and may also subscribe to stock or shares of the industrial concern if such concern increases its subscribed capital by the issue of further stock or shares in accordance with, and subject to, the provisions of section 81 of the Companies Act, 1956;

1 of 1956.

(h) generally, the doing of such acts and things as may be incidental to, or consequential upon, the exercise of its powers or the discharge of its duties under this Act.

(2) No accommodation shall be given under clauses (a), (b) and (g) of sub-section (1) unless it is sufficiently secured by a pledge, mortgage, hypothecation, or assignment of Government or other securities, stock, shares, or secured debentures, bullion, movable or immovable property or other tangible assets in the manner prescribed by regulations or unless it is guaranteed as to the repayment of the principal and the payment of interest by the State Government, a scheduled bank or a State co-operative bank.

(3) Subject to the provisions of sub-section (5) of section 7, the aggregate of contingent liabilities of the Financial Corporation under clauses (a), (b) and (c) of sub-section (1) shall not at any time exceed twice the paid-up share capital and reserve fund of the Corporation except with the prior approval of the State Government and in consultation with the Reserve Bank but in no case shall exceed thrice the paid-up share capital and reserve fund of the Corporation."

11. For section 26 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 26.

"26. The Financial Corporation shall not enter into any arrangements under clauses (a) and (g) of sub-section (1) of section 25 with any industrial concern so that the total amount outstanding against that concern in respect of all such arrangements is more than—

Limit of accommodation.

(i) twenty lakhs of rupees in the case of a public limited company as defined in section 3 of the Companies

Act, 1956 or a co-operative society registered under the Co-operative Societies Act, 1912 or any other law relating to co-operative societies for the time being in force; and

1 of 1956.

2 of 1912.

(ii) ten lakhs of rupees in any other case.”.

Amendment of section 27. 12. In section 27 of the principal Act, in sub-section (2), the following shall be added at the end, namely:—

“and nothing in the said Act or in any such law or instrument shall, in so far as it makes in relation to a director, any provision for the holding of any share qualification, age limit, restriction on the number of directorships, retirement by rotation or removal from office, apply to any director appointed by the Financial Corporation in pursuance of this section.”.

Amendment of section 28. 13. In section 28 of the principal Act, for clauses (a) and (b), the following clauses shall be substituted, namely:—

“(a) except as provided in section 8, accept deposits; 15

(b) except as provided in clauses (f) and (g) of sub-section (1) of section 25, subscribe to the shares or stock of any company;”.

Amendment of section 29. 14. In section 29 of the principal Act,—

(i) in sub-section (4), for the words “charges and expenses properly incurred”, the words “charges and expenses which in the opinion of the Financial Corporation have been properly incurred” shall be substituted;

(ii) in sub-section (5), for the words “the owner of the concern”, the words “the concern” shall be substituted. 25

Amendment of section 32. 15. In section 32 of the principal Act, for sub-section (11) the following sub-section shall be substituted, namely:—

“(11) The functions of a district judge under this section shall be exercisable—

(a) in a presidency town, where there is a city civil court having jurisdiction, by a judge of that court and in the absence of such court, by the High Court; and

(b) elsewhere, also by an additional district judge.”.

Amendment of section 32A. 16. In section 32A of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:— 35

“(3) Nothing in the Companies Act, 1956 or in any other law for the time being in force or in any instrument relating to 1 of 1956.

the industrial concern shall, in so far as it makes in relation to; a director, any provision for the holding of any share qualification, age limit, restriction on the number of directorships, retirement by rotation or removal from office, apply to any
5 director appointed by the Financial Corporation under this section.”.

17. In section 33 of the principal Act, in sub-section (2), for the words “or with any agency of the Reserve Bank other than a Gov-
ernment treasury”, the words, brackets and figures “or the State
10 Bank of India or a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959” shall be substituted. Amendment of section 33.

18. In section 35 of the principal Act, in the proviso to sub-section (2), for the words, brackets and figures “under any guarantee
given in pursuance of sub-section (2) of section 7”, the words and
15 figures “section 7 or section 8” shall be substituted. Amendment of section 35.

19. After section 35 of the principal Act, the following section shall be inserted, namely:— Insertion of new section 35A.

“35A. (1) The Financial Corporation may establish a spe-
cial reserve fund, to which shall be transferred such portion of
20 the dividends accruing to the State Government and the Reserve Bank on the shares of the Financial Corporation as may be fixed by agreement between the State Government and the Reserve Bank: Special reserve fund.

Provided that the total amount in the said fund shall at no
25 time exceed ten per cent. of the paid-up share capital of the Financial Corporation.

(2) No shareholder of Financial Corporation, other than the State Government and the Reserve Bank, shall have any claim to the special reserve fund.

30 (3) The amount standing to the credit of the special reserve fund may be utilised by the Financial Corporation for only such purposes as are approved by the State Government and the Reserve Bank.”.

20. In section 37 of the principal Act, in the proviso to sub-section (6), for the words, brackets and figures “sub-section (2) of
35 section 7”, the words and figures “section 7 or section 8” shall be substituted. Amendment of section 37.

Insertion of
new section
41A.

21. After section 41 of the principal Act, the following section shall be inserted, namely:—

Protection of
action taken
by persons
appointed
under sec-
tion 27 or
section 32A.

“41A. No suit, prosecution or other legal proceeding shall lie against any person appointed as director, administrator, managing agent or manager by the Financial Corporation in pursuance of section 27 or section 32A for anything which is in good faith done or intended to be done by him as such director, administrator, managing agent or manager.” 5

Amendment
section 43.

22. In section 43 of the principal Act,—

(i) in the first proviso,—

10

(a) for the words, brackets and figures “under any guarantee given in pursuance of sub-section (2) of section 7”, the words and figures “section 7 or section 8” shall be substituted;

(b) for the words “or bonds”, the words “bonds or deposits” shall be substituted;

(ii) in the second proviso, for the words “declared to be income-tax free”, the words “and the income-tax shall be payable thereon as if it were the interest receivable on any security of a State Government issued income-tax free” shall be substituted. 20

Insertion of
new section
43A.

23. After section 43 of the principal Act, the following section shall be inserted, namely:—

Delegation
of powers.

“43A. The Board may, by general or special order, delegate to the managing director or to any other officer of the Financial Corporation subject to such conditions and limitations, if any, as may be specified in the order such of its powers and duties under this Act as it may deem necessary.” 25

STATEMENT OF OBJECTS AND REASONS

The working of the State Financial Corporations Act, 1951 since 1956 when the Act was last amended has brought to light the need to amend it in certain respects. With the rising tempo of industrialisation of the country it has also become necessary to enlarge the field of operations of the State Financial Corporations to serve the growing needs of industry.

2. Under the existing provisions of the Act the State Financial Corporations cannot provide financial assistance to the hotel or transport industry, nor can they help in the development of the industrial estates. It is proposed to amend the Act so as to enable the Corporations to render financial assistance for the hotel and transport industries and also in the development of industrial estates.

3. To meet the growing needs of industry for financial assistance, it is necessary to augment their resources sufficiently. Consequently, the borrowing powers of the Corporations are proposed to be increased.

4. It is also proposed to amend the Act so as to enable a State Financial Corporation to transact the following kinds of new business, namely, the guaranteeing of loans raised by industrial concerns from scheduled banks or State co-operative banks, and the guaranteeing of deferred payments due from any industrial concern in connection with its purchase of goods within India. Besides, the Corporations are also being enabled to retain underwritten shares beyond seven years and to convert loans and debentures into share capital. It is further proposed to enhance the limit of accommodation in the case of public limited companies and co-operative societies to twenty lakhs of rupees.

5. The Bill seeks to achieve these objects. Opportunity is also being taken to incorporate some other amendments which are found necessary for the smooth working of the Corporations and are of a consequential, clarificatory or procedural nature. The notes on clauses appended to the Bill explain the provisions thereof.

Notes on clauses

Clause 2.—This clause seeks to include industrial concerns engaged or to be engaged in hotel industry or in the transport of passengers or goods by road or by water or in the development of any contiguous area of land as an industrial estate.

Clause 3.—It is consequential to the amendment proposed to section 8 of the Act.

Clause 4.—It seeks to clarify that insurance companies include the Life Insurance Corporation of India.

Clause 5.—This clause seeks to amend sections 7 and 8 of the Act. The amendment to section 7 enables a State Financial Corporation to borrow money from the Reserve Bank of India repayable on the expiry of fixed periods not exceeding eighteen months and also from the concerned State Government and notified financial institutions. The borrowing power has been enhanced from the existing multiple of five times to ten times the paid-up share capital and reserve fund of the Corporation. The amendment to section 8 envisages a State Financial Corporation accepting deposits from the State Government concerned, the local authority or any person, repayable after the expiry of a period not less than twelve months instead of five years at present. It also envisages the State Government guaranteeing repayment of deposits other than its own and payment of interest thereon.

Clause 6.—This clause seeks to amend section 10 of the Act in order to remove certain difficulties experienced in the nomination of directors by the Reserve Bank of India and the Industrial Finance Corporation of India and also provides for the appointment of the managing director in consultation with the Reserve Bank of India.

Clause 7.—This clause enables the State Financial Corporation to pay fees to the directors for attending meetings of any Committee appointed by the Corporation.

Clause 8.—This clause seeks to amend section 17 of the Act enabling the State Government to fix the term of office of a managing director for any period not exceeding four years.

Clause 9.—This clause seeks to amend section 19 of the Act to remove the procedural difficulties in the nomination and attendance of directors at any meeting of the Board or the Executive Committee.

Clause 10.—This clause seeks to enlarge the scope of the business undertaken by the State Financial Corporations. The new businesses which are proposed to be undertaken by the Corporations include, *inter alia*, the guaranteeing of loans raised by industrial concerns from scheduled banks or State Co-operative banks, guaranteeing of deferred payments due from any industrial concern in connection with its purchase of capital goods within India, retention as part of their assets of stock, shares, bonds or debentures issued by any industrial concern and taken up by the Corporation in fulfilment of under-writing liabilities for a period exceeding seven years from the date of acquisition with the prior permission of the Reserve Bank of India and also subscription to rights shares and the conversion of loans or advances or debentures into share capital of an industrial concern if the terms of the loans or advances provide for such conversion and also the power to subscribe to rights shares if such concern increases its subscribed capital. This clause also provides for the functioning of a State Financial Corporation as an agent of any financial institution notified by the Central Government.

To ensure that a State Financial Corporation does not lock up its funds in the form of guarantees or in underwritten shares this clause further seeks to impose a limit on the aggregate of contingent liabilities of the financial corporation in the form of guarantees given by it or underwriting agreements entered into by it at twice the paid-up share capital and reserve fund of the Corporation, which limit may be exceeded up to three times with the prior approval of the State Government and in consultation with the Reserve Bank of India.

Clause 11.—This clause seeks to enhance the limit of accommodation to rupees twenty lakhs in the case of industrial concerns which are public limited companies or co-operative societies.

Clause 13.—The amendment to section 28 of the Act is consequential to the amendments proposed to section 25 of the Act.

Clause 14.—The amendment to section 29 is clarificatory in nature.

Clause 17.—This clause seeks to amend section 33 of the Act enabling the financial corporations to deposit their monies in the State

Bank of India or in any subsidiary bank of the State Bank of India as defined in the State Bank of India (Subsidiary Banks) Act, 1959, without consulting the Reserve Bank of India.

Clause 18.—The proposed amendment to section 35 of the Act is consequential to the amendment to section 8 of the Act.

Clause 19.—This clause seeks to provide for the establishment of a special reserve fund to which the whole or a portion of the dividends accruing to the State Government and the Reserve Bank of India on the share capital held by them in a State Financial Corporation shall be transferred by an agreement between the two. This amendment is with a view to augment the reserve funds of the Corporation and is similar to the provisions of section 32A of the Industrial Finance Corporation Act, 1948.

Clause 20.—The amendment to section 37 is consequential to the amendment to section 8 of the Act.

Clause 22.—The amendments to section 43 of the Act are of consequential and clarificatory nature.

FINANCIAL MEMORANDUM

The Central Government will be liable to pay to a State Financial Corporation commission when the Corporation acts as an agent of the Central Government in any transaction with an industrial concern in respect of any loans or advances granted or debentures subscribed. It is not possible to estimate at this stage the exact amount of this expenditure.

BILL NO. 69 OF 1961

A Bill further to amend the Dock Workers (Regulation of Employment) Act, 1948.

BE it enacted by Parliament in the Twelfth Year of the Republic of India as follows:—

**Short title
and commen-
cement.**

1. (1) This Act may be called the Dock Workers (Regulation of Employment) Amendment Act, 1961.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint. 5

**Amendment
of section 2.**

2. In section 2 of the Dock Workers (Regulation of Employment) Act, 1948 (hereinafter referred to as the principal Act), clause (a) shall be re-lettered as clause (aa) thereof, and before the clause as so re-lettered, the following clause shall be inserted, namely:— 10

‘(a) “Board” means a Dock Labour Board established under section 5A.’.

**Amendment
of section 3.**

3. In section 3 of the principal Act,—

(a) in sub-section (1), after the words “the registration of dock workers”, the words “and employers” shall be inserted; 15

(b) in sub-section (2),—

(i) in clause (c), for the words “and their registration”, the words “and the registration of dock workers and employers” shall be substituted;

(ii) in clause (j), the words “whether as a body corporate or otherwise” shall be omitted. 20

Amendment
of section 5.

4. In section 5 of the principal Act,—

(a) for sub-section (2), the following sub-section shall be substituted, namely:—

5 “(2) The members of the Advisory Committee shall be appointed by the Government and shall be of such number and chosen in such manner as may be prescribed by rules made under this Act:

Provided that the Advisory Committee shall include an equal number of members representing—

- 10 (i) the Government,
(ii) the dock workers, and
(iii) the employers of dock workers, and shipping companies.”;

(b) sub-section (5) shall be omitted.

15 5. After section 5 of the principal Act, the following sections shall be inserted, namely:—

Insertion of
new sections
after section
5.

20 “5A. (1) The Government may, by notification in the Official Gazette, establish a Dock Labour Board for a port or group of ports to be known by such name as may be specified in the notification.

(2) Every such Board shall be a body corporate with the name aforesaid, having perpetual succession and a common seal with power to acquire, hold and dispose of property and to contract and may, by that name, sue and be sued.

25 (3) Every such Board shall consist of a Chairman and such number of other members as may be appointed by the Government:

Provided that every such Board shall include an equal number of members representing—

- 30 (i) the Government,
(ii) the dock workers, and
(iii) the employers of dock workers, and shipping companies.

35 (4) The Chairman of a Board shall be one of the members appointed to represent the Government, and nominated in this behalf by the Government.

40 5B. (1) A Board shall be responsible for administering the scheme for the port or group of ports for which it has been established and shall exercise such powers and perform such functions as may be conferred on it by the scheme.

Functions of
Board.

(2) In the exercise of its powers and the discharge of its functions, a Board shall be bound by such directions as the Government may, for reasons to be stated in writing, give to it from time to time.

Accounts and
audit.

5C. (1) Every Board shall maintain proper accounts and 5 other relevant records and prepare an annual statement of accounts, including a balance-sheet in such form as may be prescribed by rules made under this Act.

(2) The accounts of the Board shall be audited annually by the Comptroller and Auditor General of India or by such other 10 auditors qualified to act as auditors of companies under the law for the time being in force relating to companies, as the Government may appoint.

(3) The auditors shall, at all reasonable times, have access 15 to the books of accounts and other documents of the Board and may, for the purposes of the audit, call for such explanation and information as they may require or examine any member or officer of the Board.

(4) The auditors shall forward to the Government a copy of their report together with an audited copy of the accounts 20 of the Board.

(5) The cost of the audit as determined by the Government shall be paid out of the funds of the Board."

Insertion of
new sections
after section
6.

6. After section 6 of the principal Act, the following sections 25 shall be inserted, namely:—

Power to
order
inquiry.

"6A. (1) The Government may, at any time, appoint any person to investigate or inquire into the working of a Board and submit a report to the Government.

(2) The Board shall give to the person so appointed all facilities for the proper conduct of the investigation or inquiry 30 and furnish to him such documents, accounts or information in the possession of the Board as he may require.

Power to
supersede a
Board.

6B. (1) If, on consideration of the report under section 6A or otherwise, the Government is of opinion—

(a) that, on account of a grave emergency, a Board is 35 unable to perform its functions, or

(b) that a Board has persistently made default in the discharge of its functions or has exceeded or abused its powers,

the Government may, by notification in the Official Gazette, supersede the Board for such period as may be specified in the notification:

Provided that, before issuing a notification under this sub-section on any of the grounds mentioned in clause (b), the Government shall give a reasonable opportunity to the Board to show cause why it should not be superseded and shall consider the explanations and objections, if any, of the Board.

(2) Upon the publication of a notification under sub-section (1),—

(a) all the members of the Board shall, as from the date of such publication, vacate their offices as such members;

(b) all the powers and functions which may be exercised or performed by the Board shall, during the period of supersession, be exercised or performed by such person as may be specified in the notification;

(c) all funds and other property vested in the Board shall, during the period of supersession, vest in the Government.

(3) On the expiration of the period of supersession specified in the notification issued under sub-section (1), the Government may—

(a) extend the period of supersession for such further period as it may consider necessary; or

(b) re-establish the Board in the manner provided in section 5-A.

6C. No act or proceeding of a Board or the Advisory Committee shall be invalid merely by reason of—

Acts or proceedings of Board and Advisory Committee not to be invalidated.

(a) any vacancy in, or any defect in the constitution of, the Board or the Advisory Committee, or

(b) any defect in the appointment of a person acting as a member of the Board or the Advisory Committee, or

(c) any irregularity in the procedure of the Board or the Advisory Committee not affecting the merits of the case.”.

Insertion of
new sections
after section
7.

Power to
make rules.

7. After section 7 of the principal Act, the following sections shall be inserted, namely:—

“8. (1) The Government may, by notification in the Official Gazette, make rules to give effect to the provisions of this Act.

(2) In particular and without prejudice to the generality 5
of the foregoing power, such rules may provide for—

(a) the composition of the Advisory Committee and Boards and the manner in which members of the Advisory Committee and the Boards shall be chosen;

(b) the term of office of, and the manner of filling 10
casual vacancies among, the members of a Board or the Advisory Committee;

(c) the meetings of a Board and the Advisory Committee, the quorum for such meetings and the conduct of business thereat; 15

(d) the conditions subject to which, and the mode in which, contracts may be entered into by or on behalf of a Board;

(e) the allowances, if any, payable to the members of a Board or the Advisory Committee; 20

(f) the disqualifications for membership of a Board;

(g) the form in which a Board shall prepare its annual statement of accounts and the balance-sheet.

(3) Every rule made under this section by the Central Government shall be laid as soon as may be after it is made 25
before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the 30
rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule. 35

Saving

9. Every Dock Labour Board established for a port or a group of ports before the commencement of the Dock Workers (Regulation of

Employment) Amendment Act, 1961 under a scheme made under section 4, and functioning as such immediately before such commencement shall be deemed to be a Board established under section 5A and, accordingly, all the provisions of this Act shall apply to every
5 such Board."

STATEMENT OF OBJECTS AND REASONS

Section 3 of the Dock Workers (Regulation of Employment) Act, 1948 provides for framing a scheme for the registration of dock workers with a view to ensuring greater regularity of employment and for regulating the employment of dock workers. Clause (j) of sub-section (2) of that section provides that a scheme itself may constitute an authority which may be a body corporate for the administration of the scheme. It is proposed that the Act itself should contain provisions for the setting up of autonomous Dock Labour Boards for the administration of schemes framed under the Act for a port or a group of ports. The Bill makes such a provision. The Bill further provides for the audit of accounts of Dock Labour Boards, for the issue of directions by Government to the Boards, for inquiry into the working of the Boards and for their supersession in certain contingencies.

2. Section 3(2) (c) of the Act provides for the registration of dock workers and for the imposition of a registration fee. It is proposed to provide for the registration of employers as well and for the imposition of a registration fee in respect of them.

3. Section 5(2) of the Act provides for an Advisory Committee consisting of not more than 15 members. It is considered necessary that all the Dock Labour Boards should have representation on the Advisory Committee and that Shipping Companies should also have representation on the Advisory Committee. The number of members of the Advisory Committee has to be determined by taking into account all the relevant factors and it is proposed that the statutory restriction with regard to the number of members should be removed. It is accordingly proposed to amend section 5 of the Act to provide for all these matters.

4. Opportunity has been taken to make certain other formal and consequential amendments in the Act.

NEW DELHI;
The 27th November, 1961.

G. L. NANDA.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill inserts a new section 8 in the Act which empowers the Government to make rules. The rule making power is restricted to such matters as the composition of the Advisory Committee and the Dock Labour Boards, the term of office of members of a Dock Labour Board and the Advisory Committee, the meetings of a Board and the Advisory Committee, the allowances payable to members of a Board or the Advisory Committee, etc. The delegation of power is of a normal character.

BILL NO. 67 OF 1961

A Bill further to amend the Delhi University Act, 1922.

BE it enacted by Parliament in the Twelfth Year of the Republic of India as follows:—

Short title
and com-
mencement.

1. (1) This Act may be called the Delhi University (Amendment) Act, 1961.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment
of section 4.

2. In section 4 of the Delhi University Act, 1922 (hereinafter referred to as the principal Act),—

8 of 1922.

(a) in clause (2)—

(i) in sub-clause (c), the word “or” shall be inserted at the end;

(ii) after sub-clause (c), the following sub-clause shall be inserted, namely:—

“(d) have pursued a course of study by correspondence, whether residing within the territorial jurisdiction of the University or not.”;

(b) existing clause (12A) shall be re-numbered as clause (12C) and before clause (12C) as so re-numbered, the following clauses shall be inserted, namely:

“(12A) to acquire, hold, manage and dispose of property movable or immovable, including trust or endowed property, for the purposes of the University,

(12B) with the approval of the Central Government, to borrow, on the security of University property, money for the purposes of the University."

3. In section 5 of the principal Act, in sub-section (1), after Amendment of section 5.
5 the words "under this Act", the brackets, words and figures "(other than those conferred by sub-clause (d) of clause (2) of section 4)" shall be inserted.

4. In section 33 of the principal Act, after the words "the Amendment University", the brackets and words "(other than a student who of section 33
10 pursues a course of study by correspondence)" shall be inserted.

STATEMENT OF OBJECTS AND REASONS

The Third Five Year Plan includes a scheme for instituting evening colleges and for the introduction of correspondence courses under the various Universities in India. To begin with, the correspondence courses will be conducted in the Arts subjects but at a later stage Science subjects may also be included. These courses are likely to benefit mostly those who are living far away from the University and College centres and also those who are unable to obtain admission or otherwise prosecute higher studies in colleges.

The Expert Committee appointed by the Central Government under the chairmanship of Dr. D. S. Kothari to finalise the details of this scheme has, with the concurrence of the University of Delhi, recommended that correspondence courses be introduced under the University of Delhi from January 1962. Such courses will be open not only to those who reside in the Union territory of Delhi but also to those who reside outside that territory. Section 5 of the Delhi University Act, 1922, however, precludes the University from exercising the powers conferred upon it beyond the limits of the Union territory of Delhi. It is, therefore, proposed to amend the Act suitably in order to enable the University to conduct such courses and to confer degrees, etc., on persons who have pursued a course of study by correspondence. Opportunity has also been taken to empower the University to borrow money, with the approval of the Central Government, on the security of University property. The Bill seeks to give effect to these proposals.

K. L. SHRIMALI.

NEW DELHI;

The 24th November, 1961.